



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNR, MNSD, FF.*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order for loss of income, and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the monetary claim. The tenant applied for the return of double the security deposit and for the recovery of the filing fee.

The tenant testifies that she served the notice of hearing on the landlord on November 30, 2018, by registered mail and provided a tracking number. Despite having been served the notice of hearing and having applied for dispute resolution, the landlord did not attend the hearing. The tenant attended the hearing with her agent and was given full opportunity to present evidence and make submissions. Since the landlord did not attend this hearing, her application is dismissed without leave to reapply.

Issues to be decided

Is the tenant entitled to the return of double her security deposit and to the recovery of the filing fee?

Background and Evidence

The tenant testified that the tenancy started on November 01, 2017 for a fixed term of one year. The monthly rent was \$1,650.00 due on the first of each month. Prior to moving in the tenant paid a security deposit of \$825.00. The landlord is currently holding the security deposit.

The tenant testified that she provided the landlord with her forwarding address on November 06, 2018 and did not receive the security deposit from the landlord. On

November 30, 2018, the tenant filed this application. The landlord also filed an application of her own on November 21, 2018 which is within the legislated time frame of 15 days but failed to attend the hearing scheduled for this date.

Tenant's application:

The tenant applied for the return of double the deposit and the filing fee. Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the amount of the deposit.

The tenancy ended on October 31, 2018 and the landlord is deemed to have received the tenant's forwarding address on November 06, 2018. The landlord made application to keep the deposit in partial satisfaction of her claim in a timely manner, on November 21, 2018. Therefore, I find that the tenant is not entitled to the return of double the deposit. However, the tenant is entitled to the return of \$825.00 which is the base amount of the security deposit that is held by the landlord. Since the tenant has proven her claim, she is entitled to recover the filing fee of \$100.00.

Overall the tenant has established a claim of \$925.00. I grant the tenant an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$925.00**.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 25, 2019

Residential Tenancy Branch